MEMORANDUM

Date: February 4, 2014

To: Planning Commission

From: Joan Lieberman-Brill, AICP, Senior Planner

Nancy Cox, AICP, Development Review Manager

Paul Stewart; AICP, Deputy Director

Eric Shields, AICP, Director

Subject: 2013 MISCELLANEOUS ZONING/MUNICIPAL CODE AMENDMENTS

DELIBERATION (CAM13-00669)

I. <u>RECOMMENDATION</u>

 Receive the Houghton Community Council (HCC) recommendation on those Kirkland Zoning Code (KZC) and Municipal Code (KMC) amendments within their jurisdiction (see section II.A below).

- Consider additional information addressing two amendments outside the HCC jurisdiction; garage setbacks (Roster item # 17) and Holmes Point Overlay Zone (Roster item # 16) (see Section II.B below).
- Continue deliberation on all proposed amendments, and make a recommendation to the City Council for its consideration.

II. BACKGROUND DISCUSSION

Please use the packet provided for the joint <u>public hearing</u> on January 23rd for all background on this Miscellaneous KZC and KMC amendment project. In addition, revised drafts for some of the roster items are included as attachments to this memorandum based on the Planning Commission's initial deliberations at the public hearing and on the deliberation and recommendations of the HCC at its January 27 deliberation meeting. These revised drafts should replace the versions reviewed at the public hearing.

The joint public hearing of the Planning Commission and Houghton Community Council to receive public testimony on the proposed amendments was held on January 23rd. Nine people provided oral testimony at the hearing. After the public hearing portion of the meeting, the Planning Commission (PC) began its deliberation.

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The public comment period remained open until January 27 at 5 P.M. in order for the HCC to receive all relevant public comments on those amendments within their jurisdiction. Five emails were received prior to that deadline; two addressed topics within Houghton's jurisdiction and three were outside HCC jurisdiction. Those within HCC jurisdiction addressed horizontal facade regulation amendment, roster # 27 and the landscape buffer requirement amendment, roster # 24. Outside the HCC jurisdiction one addressed the garage setback amendment, roster # 17, and the other two addressed the Holmes Point Overlay amendment, roster #16. They were forwarded to you by email and are also included as attachments.

The City Council will consider ordinance adoption on March 18. Final action by the Houghton Community Council for those amendments within Houghton's jurisdiction is scheduled for March 24, 2014

A. <u>HCC RECOMMENDATIONS ON AMENDMENTS WITHIN HCC JURISDICTION</u> AND STAFF REVISIONS SINCE THE PUBLIC HEARING -BY ROSTER ITEM #:

During the HCC deliberation meeting on January 27 the HCC discussed the following roster items and reviewed some additional edits that were the result of the public hearing discussion. The remaining amendments that are not addressed in this memorandum were supported as proposed. No public testimony was presented at the HCC meeting. A member of the HCC will be presenting the HCC recommendations on those items within their jurisdiction at the PC meeting on February 13.

Roster # 27 - Horizontal Facade

- One letter was received from Brian Gaines after the public hearing in support of the proposed amendment (Attachment 9).
- Since the public hearing, staff added new language to Section 115.136:
 - Regarding size limits. The change exempts the first 15 feet of height (basically the ground floor) within the 20 foot wide separation between buildings, regardless of whether the transition zone is reduced from 100 to 30 feet in depth from the low density zone (see Attachment 1, section 115.136.1 highlighted in yellow). The reasoning is that 15 feet above average building elevation is in scale with typical single family dwelling units.
 - o Regarding exceptions. The change would exempt structures from compliance with these regulations when separated from a low density zone by a right of way, other than an alley (see Attachment 1, section 115.136.2 highlighted in yellow).
- Based on HCC concerns, the process to decide modifications associated with building permits has been revised from a planning official to

planning director decision, with appeal going to the hearing examiner. Modifications associated with land use permits would be decided upon through the underlying zoning process; i.e. design review, Process I, IIA, or IIB. (See Attachment 1, section 115.136.3 highlighted in yellow). The HCC supported this change.

- HCC members supported consolidation of the amendments into one section of the code rather than repeating it in individual zoning charts, as is currently the case.
- A majority of HCC members, voting 4 to 3, recommended reducing the transition zone parallel to a low density zone from 100 feet to 30 feet and that only structures greater than 15 feet in height and 50 feet in length, would have to be separated by 20 feet.
- The minority recommended at least a 60 foot transition area to be maintained and cited oral testimony at the public hearing regarding protecting and maintaining what limited sun access there is and concerns about bulk and mass as reasons to increase the depth of the transition area from 30 to 60 feet.

Roster # 14 - Small Lot and Historic Preservation Subdivision Lot Size Calculations

- 1. The HCC supports including the area less than 30 feet wide used for access regardless of whether it is a defined flag lot, in the calculation of lot area.
- 2. The HCC was split 3 to 3 with one abstention on whether or not to include the narrow portion used to provide access to the buildable area in the Floor Area Ratio (FAR) Calculation.
 - a. Reasons **for not including** narrow area in the FAR (<u>version 1 of the joint public hearing memo on page 8</u>) were:
 - Retaining more green space is a priority
 - Desire to respect the rationale for adopting the limited FAR for these two subdivision incentives in 2007, during the Norkirk and Market neighborhood plans process, as explained in oral testimony from a former Planning Commissioner.
 - Desire to continue limiting the bulk and mass of the home on a smaller lot, to respect the neighborhood character.
 - Desire to provide more diverse housing choices
 - b. Reasons **for including** narrow area in the FAR (<u>version 2 of the</u> joint public hearing memo on page 10) were:

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- Property rights to develop the same as others
- Increases affordability of redevelopment for professional developer
- Does not support FAR
- c. Reason for Abstention:
 - Compelling arguments for and against

Roster # 22 - Time Limits for Appeals of Zoning Code Interpretations:

 Since the public hearing and HCC deliberation, staff has revised the description of How to Appeal to be consistent with the description in KZC Chapter 145, Process I. (see Attachment 3 Section 170.45.2)

The HCC generally supported this amendment with the caveat that the City create a mechanism to notify the public in a timely manner when an interpretation is issued and state in the notification the process to appeal. Staff has revised the amendment to address this concern as noted in Attachment 2 Section 170.40.3. Staff will create a new "Code Amendment and Interpretation" webpage and opportunity for those who wish to sign up for "E-Mail Alerts." An email will be sent when the web page for code amendments and interpretations is updated.

Roster # 25 - Ground Mounted Solar:

- Since the public hearing and the HCC deliberation meeting, staff has revised the title of this section from Solar *Energy Systems* in Residential Zones to Solar *Collectors* in Residential Zones, since "Solar Collector" will be a defined term.
- The HCC did not support allowing solar collectors that are not attached to the roof that extend beyond the roof of a structure in residential zones, and therefore recommend eliminating the proposed exception language in Attachment 3, section 1, highlighted in yellow.
- The HCC recommended eliminating the screening requirement, noting that the screening might be more visually impacting than the panel and since ground mounted collectors are limited to six feet above finished grade, screening is unnecessary. (See Attachment 3, section 2c, highlighted in yellow)
- The HCC generally recommends adding language to explicitly state that only ground and roof mounted collectors are allowed in residential zones. They were concerned that someone may interpret the ZC to allow assessory collectors in another location. (See Attachment 3, section 2c, highlighted in yellow)

Roster # 24 - Landscape Buffer Requirements Amendment:

Attachment 10, an email from Brian Gaines, reiterates the support he
expressed at the public hearing to exempt minor arterials from landscape
buffer requirements.

He also requested that the amendment not be discussed by the HCC because he thought that this item was outside Houghton's jurisdiction. However, since the amendment would affect minor arterials City-wide it is subject to HCC jurisdiction. The HCC supports the proposed change to exempt minor arterials from this regulation.

B. <u>ISSUES OUTSIDE HCC JURISDICTION FOR CONSIDERATION SINCE THE PUBLIC HEARING – BY ROSTER ITEM #:</u>

Roster # 17 – Garage Setbacks:

- One letter was received on the garage setback issue since the public hearing from Tim Olsen, and is included as Attachment 4 to this memorandum. It reinforces his position presented at the public hearing. It advocates for Option 3 as presented on page 13 of the <u>December 5</u> <u>staff memorandum</u>, which requires that the garage not be forward of the house and that the 50% width limitation is retained.
- Although outside Houghton's jurisdiction, at its January 27 HCC meeting, a HCC member pointed out that the proposed garage setback may result in a possible unintended consequence that was not caught by staff and may not have been considered by the PC. Specifically, the proposed setback of five feet behind the longest portion of the remainder of the facade coupled with the elimination of the maximum width of the garage could result in the entire front facade being a garage, thus dominating the view from the street.

As a result of this observation, since the public hearing and the HCC deliberation meeting, staff has revised Section 115.43.3.a. to clarify that when a garage is the only element of the front facade, the underlying 20 foot required front yard setback would prevail. In addition, staff has clarified that the garage setback is measured from the ground floor portion of the front facade. Finally, staff proposes to delete Section 115.1.c to ensure that the proposal to eliminate the garage width limit is internally consistent with the purpose and intent section of this regulation. (See Attachment 5, sections 1.c and 3.a, highlighted in yellow)

Staff requests clarification from the PC on whether it is PC's intent to allow the entire ground level of the front facade of a dwelling unit to consist of the garage as is illustrated below. If the answer is yes, Attachment 5 would remain the recommendation of the PC.



• If the answer is no, the following options are proposed. The options were developed in recognition that the intent of this regulation is to ensure that the visual prominence of the garage is minimized as viewed from the street. Both of them entail limiting the garage width so that the garage recedes as a dominant element. Both versions also retain the exception from the garage width limitation for narrow lots (less than 55 feet wide at the rear of the front yard setback) in recognition of design constraints with a 40 foot wide house, after subtracting required side yards.

Although staff prefers option 1, staff supports either version in lieu of the PC initial recommendation (Attachment 5). Staffs' position is that restoring the limitation on garage width is a more significant factor than a garage setback to ensure that the remaining front facade elements provide a substantial street presence.

- Reinstate the width limit of the garage to no more than 50% of the total width of the front facade and require the garage to be five feet behind the longest portion of the remaining front facade:
 - 115.43.3. Additional Requirements for Garages with Garage Doors on the Front Facade of the Detached Dwelling Unit:
 - a. The required front yard for the garage shall be set back eight (8) feet greater than the required front yard for the remainder of the detached dwelling unit. The garage shall

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be located five (5) feet behind the longest portion of the remaining ground floor portion of the front façade (not including covered entry porches approved under KZC 115.115(3)(n)).

b. The garage width shall not exceed 50 percent of the total width of the front facade. This standard shall not apply if the lot width, as measured at the back of the required yard for the front facade, is less than 55 feet.



2. Reinstate the width limit of the garage to 50% of the total width of the front facade and require that the garage not be forward of the remainder of the facade. This was option 3 in the December 5 staff memorandum (page 13). This option would require the garage to be at or behind the remainder of the front facade, which is at a minimum, the required front yard of 20 feet. It is restated here:

115.43.3. Additional Requirements for Garages with Garage Doors on the Front Facade of the Detached Dwelling Unit:

a. The required front yard for the garage may not extend closer to the abutting right of way than shall be set back eight (8) feet greater than the required front yard for the any other ground floor portion remainder of the front facade of the detached dwelling unit.

b. The garage width shall not exceed 50 percent of the total width of the front facade. (This standard shall not apply if the lot width, as measured at the back of the required yard for the front facade, is less than 55 feet.)

Roster # 16- Holmes Point Overlay:

- Two emails from Francesca Lyman were received on Monday January 27
 (Attachments 6 and 7). She reinforces her position of supporting exchanging
 the term feasible for possible, which she also expressed at the public hearing.
- Since the public hearing, Scott Morris, representing the FHNA, has been in discussion with staff to work on the HPO amendment. Attachment 8 is their final position and is summarized below:
 - The FHNA has changed its position and now supports retaining the term feasible. They believe that feasible signifies a more rigorous standard than reasonable. They are now confident that City staff will exercise their discretion to require an owner or developer to provide a strong case for why a PNA would not be designated to protect existing viable vegetation as described in Section 70.15.4.a. of the proposed amendment.
 - 2. Members remain very concerned about ensuring transparency during the process of making PNA decisions for either plats or for building permits. To that end they request that the city codify a requirement for electronic notification of plat application in the Process chapters of the KZC (KZC 145 (Process I) for short plats and KZC 150 (Process IIA) for preliminary subdivisions) and an opportunity be provided for those who wish to sign up for "E-Mail Alerts."
 - 3. Finally, FHNA is seeking to have Process I apply for building permits in those cases where the following three conditions apply: (a) mature native vegetation exists on a lot (as detailed in proposed Section 70.15.4(a)); (b) the owner says that it is not feasible to locate the PNA to protect that existing vegetation per Section 70.15.4 (a); and (c) the public has not previously been given a Process I or IIA opportunity to comment on a decision locating the PNA elsewhere on the lot.

Staff concerns:

o Building permits associated with new Subdivisions:

If the PC thinks that to meet the intent of the HPO, a higher standard of protection, review and noticing is required when building permits associated with new subdivisions include the Memo to PC – 2013 Misc. KZC/KMC Amend. February 4, 2014
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conditions described in 5 above, staff would suggest that the PC consider requiring all HPO subdivisions to go through an Integrated Development Plan (no phased review) and direct staff to develop modification standards for changes post approval, that mirror existing KZC Chapter 95 Tree Management and Landscape Standards. This way an existing process can be utilized rather than inventing a new one for building permit reviews that start with plat approval.

The advantage of this front loaded review process is that it would dictate to all subdivision developers that they must have more detailed engineering and house plans to subdivide in this area than required with phased review. Unlike phased review, with the Integrated Development Plan the PNA would have to be designated prior to approval of the subdivision, rather than at the building permit stage. To later modify the PNA location would require vacation of a PNA easement, and a new notification, comment and appeal process.

Given the intent of the HPO to provide elevated protection of the environment, and the high expectations of the community this may be the only way to make the entire process transparent. The down side is that all subdivision applicants would be required to submit more detailed engineering upfront and commit to determining the house footprints and driveway locations early in the process. Applicants who subdivide with the intent to sell the lots to builders will find that changes to the approved plans that affect trees or the PNA are highly restrictive.

Existing lots without a PNA designation

Staff does not support providing a public comment and appeal process for those building permits that haven't gone through a PNA designation process. These fall into several categories; lots that were subdivided before the PNA ordinance took effect in King County, and lots subdivided after the HPO ordinance adoption in 1999 and up until now, for which there are no recorded PNA easements to rely on for guidance.

Building permits are ministerial administrative decisions. Currently building permit issuance may be challenged under the Land Use Petitions Act (LUPA) in King County Superior Court. Planning is only one department of many within the City that reviews a building permit and it is the Building Department that issues building permits. So any change to this process would likely be made to the Kirkland Municipal Code, and would represent a dramatic departure from current City procedures.

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It is necessary to check with the City Attorney's office to determine any legal obstacles for creating a discretionary appeal process like Process I, before judicial appeal. A change would require staff resources beyond the scope of this amendment process.

If the Planning Commission concurs with the FNHA position that there should be a more process associated review of building permits subject to the HPO ordinance, then some level of <u>zoning permit</u> review may be necessary. This would allow a public process and allow collection of fees to cover the City cost of administering such a process.

Attachments:

- 1. Horizontal Façade amendment
- 2. Time Limits Zoning Code Interpretations amendment
- 3. Ground Mounted Solar in Residential Zones amendment
- 4. Letter addressing Garage setbacks from Tim Olson
- 5. Garage Setbacks amendment
- 6. Email 1 addressing HPO from Francesca Lyman
- 7. Email 2 addressing HPO from Francesca Lyman
- 8. Letter addressing HPO from Scott Morris, President, FHNA
- 9. Email addressing Horizontal Facade Amendment from Brian Gains
- 10. Email addressing Landscape Buffer Requirements from Brian Gains

Cc:

CAM13-00669

Chapter 5 – DEFINITIONS

5.10.020 Adjoining

– Property that touches or is directly across a street, other than a principal arterial, from the subject property. For the purposes of applying the regulations that limit the height and horizontal length of facade adjoining a low density zone, the regulations shall only apply within an area of 100 feet of and parallel to the boundary line of a low density zone (as shown on Plate 18).

.507 Maximum Horizontal Facade

The widest cross-section of the building(s) in the area adjoining the low density zone or within 100 feet of the adjoining lot containing the detached dwelling unit or low density use. The cross-section width is measured parallel to the zone or lot(s). (See Plate 38.)

For the following use zone charts delete the following language and replace it with new language referring to Section 115.136:

RS Zone, 15.08, General Regulation 2	PLA 6A Zone, 60.55, General Regulation 3		
RSX Zone, 17.08, General Regulation 2	PLA 6B Zone, 60.60, General Regulation 3		
RSA Zone, 18.08, General Regulation 2	PLA 6C Zone, 60.65, General Regulation 2		
RM, RMA Zone, 20.08, General Regulation 3	PLA 6D Zone, 60.70, General Regulation 3		
PR, PRA Zone, 25.08, General Regulation 3	PLA 6E Zone, 60.75, General Regulation 2		
PO Zone, 27.08, General Regulation 2	PLA 6F Zone, 60.80, General Regulation 3		
WDII Zone, 30.25.030, 30.25.040, Special	PLA 6G Zone, 60.85, General Regulation 3		
Regulation 2			
WDII Zone, 30.25.050, Special Regulation 1	0.25.050, Special Regulation 1 PLA 6G Zone, 60.87.130, Special Regulation 3		
BN, BNA Zone, 40.08, General Regulation 2	PLA 6H Zone, 60.90, General Regulation 3		
BC, BC-1, BC-2 Zone, 45.08, General Regulation 2	PLA 6I Zone, 60.95, General Regulation 3		
BCX Zone, 47.08, General Regulation 2	PLA 6J Zone, 60.100, General Regulation 3		
LIT Zone, 48.10, General Regulation 2	PLA 6K Zone, 60.105, General Regulation 3		
P Zone, 49.10, General Regulation 2	PLA 6A Zone, 60.55, General Regulation 3		
MSC-1, 4 Zone, 51.08, General Regulation 3	PLA 6B Zone, 60.60, General Regulation 3		
MSC-2 Zone, 51.18, General Regulation 2	PLA 6C Zone, 60.65, General Regulation 2		
MSC-3 Zone, 51.28, General Regulation 2	PLA 6D Zone, 60.70, General Regulation 3		
RH 5A, 5B Zone, 53.52, General Regulation 2	PLA 6E Zone, 60.75, General Regulation 2		
RH 5C Zone, 53.57, General Regulation 2	PLA 6F Zone, 60.80, General Regulation 3		
RH 8 Zone, 53.82, General Regulation 2	PLA 6G Zone, 60.85, General Regulation 3		
NRH1B Zone, 54.10, General Regulation 3	PLA 6G Zone, 60.87.130, Special Regulation 3		
NRH2 Zone, 54.16, General Regulation 2	PLA 6H Zone, 60.90, General Regulation 3		
NRH3 Zone, 54.22, General Regulation 2	PLA 6I Zone, 60.95, General Regulation 3		
TL 10A Zone, 55.67, General Regulation 2	PLA 6J Zone, 60.100, General Regulation 3		
TL 10B Zone, 55.73, General Regulation 2	PLA 6K Zone, 60.105, General Regulation 3		
TL 11 Zone, 55.97, General Regulation 3	PLA 7A, B, C Zone, 60.110, General Regulation 3		
PLA 1 Zone, 60.12.040, 60.12.050, 60.12.060,	PLA 9 Zone, 60.130, General Regulation 3		
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Special Regulation 2	
PLA 1 Zone, 60.12.070, Special Regulation 1	PLA 14 Zone, 60.168a, General Regulation 2
PLA 3C Zone, 60.25, General Regulation 2	PLA 15B Zone, 60.175, General Regulation 3
PLA 5A Zone, 60.30, General Regulation 3	PLA 16 Zone, 60.180, General Regulation 2
PLA 5B Zone, 60.35, General Regulation 3	PLA 17 Zone, 60.185, General Regulation 3
PLA 5C Zone, 60.40, General Regulation 3	PLA 17A Zone, 60.190, General Regulation 3
PLA 5D Zone, 60.45, General Regulation 3	
PLA 5E Zone, 60.50, General Regulation 3	

- a. 1. If any portion of a structure is adjoining a low density zone or a low density use in PLA 17, then either:
 - a. The height of that portion of the structure shall not exceed 15 feet above average building elevation; or
 - b. The maximum horizontal facade shall not exceed 50 feet in width.
 - See KZC <u>115.30</u>, Distance Between Structures/Adjacency to Institutional Use, for further details.

(Does not apply to Piers, Docks, Boat Lifts and Canopies Serving Detached, Attached or Stacked Dwelling Units and Detached Dwelling Units uses).

For structures located within 30 feet of a parcel in a low density zone (or a low density use in PLA 17) Section 115.136 establishes additional limitations on structure size.

New Section 115.136:

115.136. Size Limitations for Structures Abutting Low Density Zones and Uses.

1. Size Limits – On properties located in other than low density zones, any portion of a structure greater than 15 feet in height and located within 30 feet of either a low density zone or a parcel within the PLA 17 zone containing a low density use shall be no greater than 50 feet in length, as measured parallel to the property line separating the subject property from the abutting low density zone or use. In applying this regulation, structures or portions thereof shall be treated as a single structure if any portions of the structures, other than those elements listed in subsection 2.b below, are located within 20 feet of each other.

2. Exceptions

- a. The above size limits do not apply to:
 - 1) Structures within 30 feet of a parcel containing an institutional use;
 - 2) <u>Structures separated from a low density zone by another developed parcel or right of way, except alleys; and</u>
 - 3) Detached dwelling units separated from each other by at least 10 feet;
- b. The following elements of a structure are not subject to the 20 feet separation established in Section 1 above:
 - 1) Any elements no higher than 18 inches above finished grade;
 - 2) Chimneys, bay windows, greenhouse windows, eaves, cornices, awnings and canopies that extend no more than 18 inches from the wall of a structure;
 - 3) Stairs that extend no more than five feet from the wall of a structure; and
 - 4) Porches that extend no more than five feet from the wall of a structure if:

- a) The porch is no higher than one story and the finished floor of the porch is no more than four feet above finished grade;
- b) Three sides of the porch are open, other than solid walls or railings up to a height of 42 inches;
- c) No deck, balcony or living area is on the roof of the porch;
- d) The length of the porch does not exceed 50% of the wall of the structure to which it is attached; and
- e) Porch eaves may extend an additional 18 inches from the edge of the porch.
- 3. <u>Modifications The City may approve modifications from the dimensional standards</u> specified in Section 1 if it determines that either:
 - a. The topography, vegetation or improvements on either the subject property or abutting property adequately obscure the visibility of the structure from the abutting property; or
 - b. The design of the structure moderates its apparent size as well as or better than strict adherence to the dimensions specified in Section 1,

The decision on the modification shall be made by the Planning Director and appeals shall be in accordance with the appeal provisions of Process I, Chapter 145; provided that if the development requires a decision through design review, Process I, Process IIA or Process IIB, the decision on the modification and appeals thereof shall be made using the required review process for the development.

Delete Section 115.30:

115.30 Distance Between Structures/Adjacency to Institutional Use

- 1. Distance Between Structures
 - a. Apply to:
 - 1) Calculation of F.A.R. for detached dwelling units in low density zones, and
 - 2) Regulation of maximum horizontal facade (See KZC 5.10.507 for definition).
 - b. General For purposes of the regulation in this code regarding maximum horizontal facade for any use in any zone to which the maximum horizontal facade limitations apply, and F.A.R. calculation for detached dwelling units in low density residential zones only, two (2) structures will be treated and considered as one (1) structure if any elements of the structures, other than as specified in subsection (1)(c) of this section, are closer than 20 feet to each other. In addition, two (2) structures connected by a breezeway or walkway will be regulated as one (1) structure if any element of the breezeway or walkway is higher than 10 feet above finished grade.
 - c. Exceptions
 - 1) Elements of a structure no higher than 18 inches above finished grade may be closer than 20 feet to another structure.
 - 2) Chimneys, bay windows, greenhouse windows, eaves, cornices, awnings and canopies may extend 18 inches from each structure toward the other.
 - 3) Detached dwelling units approved and constructed as a "Detached, Attached, or Stacked Dwelling Unit" are excluded from horizontal facade regulations if they are separated by at least 10 feet.

- 4) Porches and stairs may extend five (5) feet from each structure toward the other if:
 - a) The porch is no higher than one (1) story and the finished floor of the porch is no more than four (4) feet above finished grade;
 - b) Three (3) sides of the porch are open;
 - c) No deck, balcony, or living area will be placed on the roof of the porch; and
 - d) The width of the porch will not exceed 50 percent of the facade to which it is attached.
 - e) Allowed exceptions to the above criteria are:
 - i) Solid walls or railings may extend up to 42 inches above the porch floor;
 - ii) Eaves on the porch roof may extend an additional 18 inches beyond the porch.
- 2. Adjacency to Institutional Uses If a structure is located adjacent to an institutional use which is located in a low density zone, the maximum horizontal dimension provision of 50 feet may be waived by the Planning Director

Integrate existing requirements from 115.30 pertaining to the calculation of FAR into Section 115.42:

115.42 Floor Area Ratio (F.A.R.) Calculation for Detached Dwelling Units in Low Density Residential Zones and Attached Dwelling Units in PLA 3C.

- 1. Gross floor area for purposes of calculating F.A.R. and maximum floor area for detached dwelling units in low density residential zones and attached dwelling units in PLA 3C shall include the entire area within the exterior walls for each level of the structure. It shall also include the area of all carports, measured as the area of the carport roof. It shall not include the following:
 - a. Attic area with less than five (5) feet of ceiling height, as measured between the finished floor and the supporting members for the roof.
 - b. Floor area with a ceiling height less than six (6) feet above finished grade. The ceiling height will be measured to the top of the structural members for the floor above. The finished grade will be measured along the outside perimeter of the building (see Plate 23).
 - c. On lots less than 8,500 square feet, the first 500 square feet of an accessory dwelling unit or garage contained in an accessory structure, when such accessory structure is located more than 20 feet from and behind the main structure (see KZC 115.30 for additional information on the required distance between structures); provided, that the entire area of an accessory structure, for which a building permit was issued prior to March 6, 2007, shall not be included in the gross floor area used to calculate F.A.R. For purposes of this section, "behind" means located behind an imaginary plane drawn at the back of the main structure at the farthest point from, and parallel to, the street or access easement serving the residence.
 - d. On lots greater than or equal to 8,500 square feet, the first 800 square feet of an accessory dwelling unit or garage contained in an accessory structure, when such accessory structure is located more than 20 feet from and behind the main structure (see KZC <u>115.30</u> for additional information on the required

- distance between structures); provided, that the entire area of an accessory structure, for which a building permit was issued prior to March 6, 2007, shall not be included in the gross floor area used to calculate F.A.R.
- e. Uncovered and covered decks, porches, and walkways.
- f. One hundred square feet if the dwelling unit has an internal staircase and/or an area with a ceiling height greater than 16 feet.
- 2. Floor area with a ceiling height greater than 16 feet shall be calculated at twice the actual floor area toward allowable F.A.R. The ceiling height for these areas will be measured to the top of the structural members for the floor above or, if there is no floor above, to the bottom of the structural members for the roof.
- 3. Separate structures will be regulated as one structure if any elements of the structures, except for the elements listed in Section b.4) below, are closer than 20 feet to each other.
 - a. Two structures connected by a breezeway or walkway will be regulated as one structure if any element of the breezeway or walkway is higher than 10 feet above finished grade.
 - b. <u>Elements of structures that may be closer than 20 feet to each other are:</u>
 - 1) Elements of a structure no higher than 18 inches above finished grade;
 - 2) <u>Chimneys, bay windows, greenhouse windows, eaves, cornices, awnings and canopies extending no more than 18 inches from the wall of a structure;</u>
 - 3) Stairs extending no more than five feet from the wall of a structure;
 - 4) Porches extending no more than five feet from the wall of a structure if:
 - a) The porch is no higher than one story and the finished floor of the porch is no more than four feet above finished grade;
 - b) Three sides of the porch are open other than railings and solid walls no higher than 42 inches;
 - c) No deck, balcony, or living area is placed on the roof of the porch:
 - d) The length of the porch does not exceed 50% of the wall of the structure to which it is attached;
 - e) Porch eaves may extend an additional 18 inches from the edge of the porch.

This section is not effective within the disapproval jurisdiction of the Houghton Community Council, except for those lots in PLA 3C that are less than 7,200 square feet or lots that have less than the minimum lot size created through the small lot provisions of KMC 22.28.042, subdivisions.

Delete the following language in Section 142.37:

142.37 Design Departure and Minor Variations.

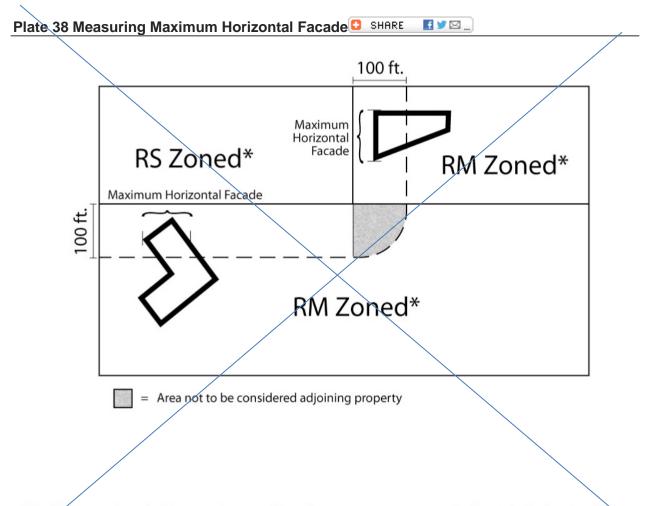
- 1. General This section provides a mechanism for obtaining approval to depart from strict adherence to the design regulations or for requesting minor variations from requirements in the following zones:
 - a. In the CBD and YBD: minimum required yards; and
 - b. In the Totem Center: minimum required yards, floor plate maximums and building separation requirements; and
 - c. In the RHBD, the PLA 5C zone, and the TLN: minimum required yards, and landscape buffer and horizontal facade requirements; and
 - d. In the MSC 1 and MSC 4 zones of the Market Street Corridor: minimum required front yards and horizontal facade requirements; and
 - e. In the MSC 2 zone of the Market Street Corridor: height (up to an additional five (5) feet), <u>and</u> minimum required front yards and horizontal facade requirements; and
 - f. In the MSC 3 zone of the Market Street Corridor: horizontal facade requirements; and
 - g. In the BN and BNA zones: horizontal facade requirements.

This section does not apply when a design regulation permits the applicant to propose an alternate method for complying with it or the use zone chart allows the applicant to request a reduced setback administratively.

- 2. Process If a design departure or minor variation is requested, the D.R. decision, including the design departure or minor variation, will be reviewed and decided upon using the D.B.R. process.
- 3. Application Information The applicant shall submit a complete application on the form provided by the Planning Department, along with all information listed on that form, including a written response to the criteria in subsection (4) of this section.
- 4. Criteria The Design Review Board may grant a design departure or minor variation only if it finds that all of the following requirements are met:
 - a. The request results in superior design and fulfills the policy basis for the applicable design regulations and design guidelines;

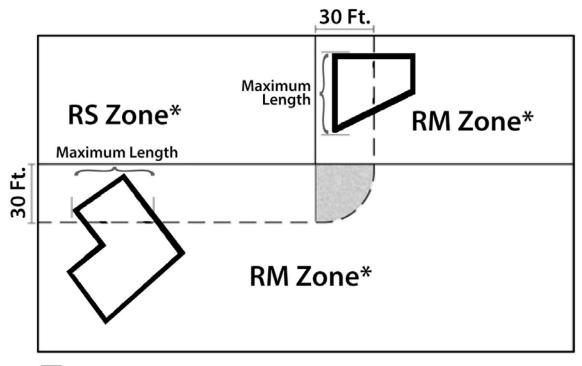
b. The departure will not have any substantial detrimental effect on nearby properties and the City or the neighborhood.

Delete the following Plate 38 and replace with new Plate 38:



^{*}Used for example only. Maximum horizontal facade requirements are specified by individual zoning district.

<u>Plate 38: Measuring Size Limitations for Structures Abutting Low Density Zones & Low Density Uses in the PLA17 zone.</u>



= Area not to be considered abutting property

^{*} Used for example only. Size limitations required for zones and uses other than low density (See KZC section 115.136).

Chapter 170 - CODE ADMINISTRATION

170.40 Interpretations of This Code – General

- 1. Criteria The Planning Director may, acting on his/her own initiative or in response to an inquiry, issue interpretations of any of the provisions of this code. The Director shall base his/her interpretations on:
 - a. The defined or common meaning of the words of the provision; and
 - b. The general purpose of the provision as expressed in the provision; and
 - c. The logical or likely meaning of the provision viewed in relation to the Comprehensive Plan.
- 2. Effect An interpretation of this code will be enforced as if it is part of this code.
- 3. Availability All interpretations of this code, filed sequentially, are available for public inspection and copying in the Planning Department during regular business hours. The Planning Official shall also make appropriate references in this code to these interpretations. Once issued, the interpretation shall be posted on the City's website. The City shall maintain a list of people who have expressed an interest in receiving interpretations and notice shall be sent to all people on the list when one is issued.
- 4. Content The interpretation shall include a summary of the procedures, as established in this chapter, to appeal the interpretation.

KZC 170.45 Interpretations of This Code – Appeal

- 1. Who CanMay Appeal Any person who is aggrieved by an interpretation issued by the Planning Director may appeal that interpretation at any time.
- 2. Time To Appeal/How To Appeal The appeal, in the form of a letter of appeal, must be delivered to the Planning Department within 14 days following the date the interpretation is posted to the City website provided that if the fourteenth day of the appeal period falls on a Saturday, Sunday or legal holiday, the appeal period shall be extended through the next day on which the City is open for business. The applicant must file a letter of appeal must indicateing how the interpretation affects his/her property and presenting any relevant arguments or information on the correctness of the interpretation. The applicant shall include tThe appeals fee as established by ordinance shall be included.
- 3. Applicable Procedures All appeals of interpretations of this code will be reviewed and decided upon using the appeal provisions of Process I,

described in Chapter 145 KZC.

- 4. Effect If the interpretation of the Planning Director is modified, the Planning Official shall:
 - a. Place the modifying decision in the Interpretation File; and
 - b. Change or remove, as appropriate, the interpretation that was modified; and
 - c. Change the reference in this code to reflect the modification.

Chapter 115 – MISCELLANEOUS USE DEVELOPMENT AND PERFORMANCE STANDARDS

Sections:

- 115.05 <u>User Guide</u>
- 115.07 Accessory Dwelling Units
- 115.08 Accessory Structure (Detached Dwelling Unit Uses Only)
- 115.10 Accessory Uses, Facilities and Activities
- 115.15 Air Quality Regulations
- 115.20 Animals in Residential Zones
- 115.23 Common Recreational Space Requirements for Certain Residential Uses
- 115.25 Development Activities and Heavy Equipment Operation Limitations On
- 115.30 Distance Between Structures/Adjacency to Institutional Use
- 115.33 Electric Vehicle Infrastructure
- 115.35 Erosion and Sedimentation Regulation
- 115.40 Fences
- 115.42 Floor Area Ratio (F.A.R.) Calculation for Detached Dwelling Units in Low Density Residential Zones and Attached Dwelling Units in PLA 3C
- 115.43 Garage Requirements for Detached Dwelling Units in Low Density Zones
- <u>115.45 Garbage and Recycling Receptacles and Enclosures Storage Space, Placement and Screening</u>
- 115.47 Loading and Service Areas Placement and Screening
- 115.50 Glare Regulation
- 115.55 Heat Regulation
- 115.59 Height Regulations Calculating Average Building Elevation (ABE)
- 115.60 Height Regulations Exceptions
- 115.65 Home Occupations
- 115.80 Legal Building Site
- 115.85 Lighting Regulations
- 115.90 Calculating Lot Coverage
- 115.95 Noise Regulations
- 115.100 Odor
- 115.105 Outdoor Use, Activity and Storage
- 115.110 Radiation
- 115.115 Required Yards
- 115.120 Rooftop Appurtenances
- 115.125 Rounding of Fractions of Dwelling Units
- 115.135 Sight Distance at Intersections
- 115.137 Solar Collectors in Residential Zones
- 115.138 Temporary Storage Containers
- 115.140 Temporary Trailers for Construction and Real Estate Sales Offices
- 115.142 Transit Shelters and Centers, Public
- 115.150 Vehicles, Boats and Trailers Size in Residential Zones Limited

115.137 Solar Collectors in Residential Zones

Only ground and roof mounted solar collectors are allowed in residential zones.

- 1) Roof Mounted Roof mounted solar collectors are allowed in all residential zones pursuant to KZC Section 115.60.2 Height Regulations Exceptions. For the purpose of this section, a solar collector will be considered to be roof mounted if it extends across the roof of a structure without being attached.
- 2) <u>Ground Mounted Ground mounted solar collectors are allowed in all residential zones subject to the following standards:</u>
 - a) Location: Ground mounted solar collectors shall be placed behind a plane extending across the width of the property at the front facade of the dwelling unit or other structure located closest to the front property line.
 - b) <u>Height: The maximum permitted height of a solar collector is 6 feet above finished grade.</u>
 - c)—Screening: A six foot high solid fence or vegetation providing equal screening shall be installed /planted to screen the solar collectors from adjacent properties.
 - d) Ground mounted solar collectors that move to follow the angle of the sun are prohibited.

Chapter 5 – DEFINITIONS

5.10. 881.1 Solar Collector:

<u>Any of various devices for the absorption of solar radiation for the heating of water or buildings</u> or the production of electricity

5.10.881.42 Solar Panel

A panel designed to absorb the sun's rays for generating electricity or heating.

Tim Olson Architect 1571 3rd Street Kirkland, WA 98033

January 25, 2014

Joan Lieberman-Brill Senior Planner City of Kirkland 123 5th Avenue Kirkland, WA 98033

Dear Joan,

Thanks for the opportunity to comment on the proposed 2013 Miscellaneous Zoning and Municipal Code Amendments. I'd like to offer my thoughts on Garage Setback Requirements for Detached Dwelling Units in Low Density Zones – KZC Chapter 115 Section 115.43.

The Background and Issues paragraphs in the staff report fairly and accurately summarize what has been going on with garages since 2008; My experience designing houses since that time is varied. Although I've been able to comply with the 28' setback for the garage door plane, 20' for the main portion of the house, and 13' for the open, covered front porch, the process has been more difficult. The floor plans in most of those houses have suffered greatly, especially on smaller lots. Relationships and connections between interior spaces and the resulting exterior yards and patio or deck areas are much more difficult with that 8' x 24' chunk of garage poking into the main floor volume. The 28' setback number arrived a in 2008 seemed then, and seems now, so arbitrary, almost punitive. It also seems the requirements really don't have a chance to help produce housing stock that meets the goal of minimizing the appearance of the garage when viewing the front façade of a house.

Some of the requirements in sub-Sections 2, 3, 4, and 5 of 115.43 do not make sense. Exemption 4b, for example, deals with houses with below-grade garages. Sounds great in theory, but the reality is much different. The intended "minimized appearance" of the garage door (in this case only 25% visible, 75% hidden from view) is valid only if you are a nightcrawler on the center line of the roadway. If you stand on the sidewalk on the opposite side of a typical street you see over half of the garage door; if you're in a car driving by you see even more, and if you're on the sidewalk at the start of the driveway down to the garage you see 100% of the garage door. And that's if the garage door is at the minimum 20' setback, which is nearly impossible due to the steepness of the driveway. As the setback becomes greater the visibility of the garage door increases in all cases.

In Houghton (where 115.43 is not effective/applied), in numerous PUDs throughout the city where most of the zoning rules have been modified, in the newly annexed area that were developed previously under King County zoning rules, and the many, many existing homes that will be here for 60-80 years before they're redeveloped...they all allowed to have garage doors at the 20' setback line. I've been told that Houghton is a pretty nice place, with high-quality houses and streetscapes. And the PUDs, although some will say they have insufficient parking and they're too densely packed—individual houses and units in the PUD are typically well-designed and very pleasing to the eye. It makes little sense to force the

owner of a new house to place his garage door at 25' (or the current 28') when many of his neighbors have theirs at 20', for the lifespan of both houses.

Back to the purpose and intent to minimize the appearance of the garage...Nearly all of the photos included in the staff report were taken to attempt to emphasize the "façade-ness" of the house, that frontal aspect you would get in an exterior elevation drawing, viewed from infinity; however, from those photos alone you can't tell which garage door planes are at the 20' setback line and which are two feet back, or eight feet back...I needed to read the caption on each photo.

What does stand out in every photo, however, is the driveway, the big, white (often over-exposed in photos) expanse of concrete in front of the garage door. I contend now, and did in 2008 when I spoke before the City Council on this same issue, that it's the driveway that most people react to when they express displeasure at the "appearance" of garages dominating the front facade. If you just flew in from Mars and didn't know the difference between a garage door and a wall of painted fiber-cement siding next to it you would say "So what". Quite frankly, there are many garage doors available that are gorgeous...they look far more attractive than an inexpensive vinyl window or a section of fiber-cement plank siding on the wall. It's the driveway—it's not the location of the wall plane containing the garage door.

I pointed out, back in 2008, that one consequence of the 28' garage door setback, perhaps unintended, was the facilitation of tandem parking of cars in the driveway—the deeper the driveway, the more white concrete visible and more cars parked. The Zoning and Public Works codes both require a minimum 20' x 20' parking pad (essentially filling the front setback); there is no requirement to park cars in a provided garage. The Zoning Code, and I think Public Works as well stipulate that the driveway must be paved with asphalt, concrete, or modular pavers. Grassed modular pavers, typically known as "Grass-crete", are not allowed. Why not? If the visitor from Mars, or a Kirkland citizen, saw the green lawn in the front yard blend into a similar green, or near green, surface in front of those bigger doors they would again say, "So what". It all looks like house.

In summary, to minimize the appearance of the garage when viewing the front façade of a house, as described in the purpose and intent of the sub-Section 1 in the code, don't focus exclusively on the placement of the garage door in relation to the other house elements; instead, consider minimizing the appearance of the driveway and place minimal and reasonable restrictions on garage doors placed at the 20' setback—things like a maximum size for a single door, perhaps nine feet wide by eight feet high, prohibiting flush panel rollup doors that lack any "texture", require rollup doors to have windows or frame and panel construction to produce shadow lines. And definitely encourage or incentivize different surface materials so driveways don't look like the driveways in the photos.

I support Option 3 in the staff report. Simplify the code for the planning staff; get rid of the eight foot, or five foot, or two foot, or whatever foot modulation of garage doors parallel to the front property line. Let them be placed at the 20' setback, but stipulate that they can't "stick out" from the main portion of the house if the house isn't at the 20' setback. Clean and simple.

Sincerely	,
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Tim Olson Architect

Chapter 115 – MISCELLANEOUS USE DEVELOPMENT AND PERFORMANCE STANDARDS

115.43 Garage Requirements for Detached Dwelling Units in Low Density Zones

- 1. Purpose and Intent The intent of these regulations is to minimize the appearance of the garage when viewing the front facade of a house. To achieve this result, the following principles apply:
 - a. The garage doors, whenever practicable, should not be placed on the front facade of the house;
 - b. If the garage doors are on the front facade, the garage should be set back from the plane of the front facade closest to the street, access easement or tract; and
 - c. The width of the garage face generally should be no more than the width of the remainder of the front facade; and
 - d. Garages with garage doors perpendicular to the street, access easement or tract (side-entry garages) should not have a blank wall on the front facade.
- 2. General Requirements (no change)
- 3. Additional Requirements for Garages with Garage Doors on the Front Facade of the Detached Dwelling Unit
 - a. The required front yard for the garage shall be set back eight (8) feet greater than the required front yard for the remainder of the detached dwelling unit Unless there is no remaining front facade, the garage shall be five (5) feet behind the longest portion of the remaining ground floor portion of the front facade. (not including covered entry porches approved under KZC 115.115(3)(n)).
 - b. The garage width shall not exceed 50 percent of the total width of the front facade. (This standard shall not apply if the lot width, as measured at the back of the required yard for the front facade, is less than 55 feet.)
 - c. For purposes of this section, the width of the front facade shall not include those items located along the side facades described in KZC <u>115.115(3)(d)</u>, even if they are outside of a required yard.
- 4. Exemptions *(no change)*
- 5. Deviation From Requirements The Planning Official may allow deviations from the requirements of this section if the following criteria are met:
 - a. The modification is necessary because of the size, configuration, topography or location of the subject property, or the location of a preexisting

improvement on the subject property that conformed to the Zoning Code in effect when the improvement was constructed; and

- b. The modification supports the purpose and intent of the garage setback regulations; and
- c. The modification includes design details that minimize the dominant appearance of the garage when viewed from the street, access easement or tract (for example, casings; columns; trellises; windows; surface treatments or color; single-stall doors; door offsets; narrowed driveway widths; and/or enhanced landscaping); and
- d. The modification will not have any substantial detrimental effect on nearby properties and the City as a whole.
- 6. (no change)

From: F Lyman [mailto:chichal9@comcast.net] Sent: Monday, January 27, 2014 5:54 PM

To: Planning Commissioners; Joan Lieberman-Brill; Jeremy McMahan

Subject: map -- to accompany photos of landslide behind home on Holmes Point Drive

Dear Planning Commissioners,

Please see attached photos, which I was not able to send to you with my earlier comment, which was addressed to the potential hazards of landslides in our area. Could you please enter these photos of mudslides on Holmes Point Drive into the public record as a supplement to my earlier message to you? [below]. I'll also send you a map of where this occurred.

While these are not very good photos, having been taken with an iPhone, they get across the idea that the Holmes Point area does have slopes that are far more susceptible to drainage and stormwater problems, flooding, and even landslides and mudslides because of their geology, soils, and hydrology. These landslide pictures were taken on Holmes Pt. Drive, facing southeast. It was behind the first house on the right driving up towards the QFC.

Sincerely,

Francesca Lyman
Holmes Point resident
& Finn Hill Neighborhood Alliance board of directors
http://finnhillalliance.org

Also, here's a whole document relatd to hazard mitigation, and landslides as part: http://www.emd.wa.gov/plans/documents/ehmp-5.6_landslide.pdf

Jurisdictions at greatest risk – Areas most susceptible to landslides are difficult to determine, since site specific variables can alter susceptibility. Areas typically susceptible to landslides are steep hillsides (20 degrees and greater) and convergent topography (where slopes drain towards a point above stream – not sure if there's stream behind that house, but there certainly is a small one that runs along HPD across the raod – so I'm guessing this applies tot hat specific Icoation). Landforms can also be a factor in landslide susceptibility, such as areas of steep shoreline bluffs, colluvial hollows (bedrock hollows), inner gorges, meander bends, rugged topography (mountainous terrain), and areas with previous deep-seated landslide movement. Features such as alluvial fans can be areas of deposition for debris flows and other landslides.

---- Original Message -----

From: F Lyman

To: PlanningCommissioners@kirklandwa.gov

Cc: Joan Lieberman-Brill; JMcMahan@kirklandwa.gov; board@finnhillalliance.org

Sent: Thursday, January 23, 2014 2:51 PM

Subject: comment on Holmes Point Overlay ordinance amendments -- to be considered at Jan 23 public hearing

riodinig

Planning Commission, City of Kirkland 123 Fifth Avenue; Kirkland, Washington 98033

PlanningCommissioners@kirklandwa.gov

Re: Holmes Point Overlay Zone

Dear Planning Commissioners,

I'm writing to support your proposed changes to the Holmes Point Overlay, with one important request - that the word 'feasible' be changed to "possible" (as requested by Scott Morris and the FHNA Board of Directors)-- to not dilute the integrity of this carefully-crafted code.

A Finn Hill resident for 16 years, I've raised a family here and served on the board of the Finn Hill Neighborhood Alliance. Holmes Point is one of several Kirkland neighborhoods left that is truly is blessed with the emblematic beauty of the Pacific Northwest. With its tall trees and rich patches of actual woods filled with birds and wildlife habitat, it's one of our city's increasingly coveted places. Its rustic country roads (not requiring speed bumps) are safer for children, adding charm as well as naturally-beneficial pervious surfaces

As we're all well aware, this unique neighborhood sits geographically on a dramatic incline sloping down Finn Hill to Lake Washington, over which literally thousands upon thousands of gallons of rainwater flow continuously. Your careful attention to protecting Holmes Point's trees and ravines, apart from their aesthetic appeal, is crucial in preventing landslides and erosion that endanger homes, property, and people.

That's why, while applauding your strengthening provisions of the Overlay to protect this area, I don't want to see you allow exemptions to this code that would enable property owners to claim that certain protections for the environment and safety are "not feasible."

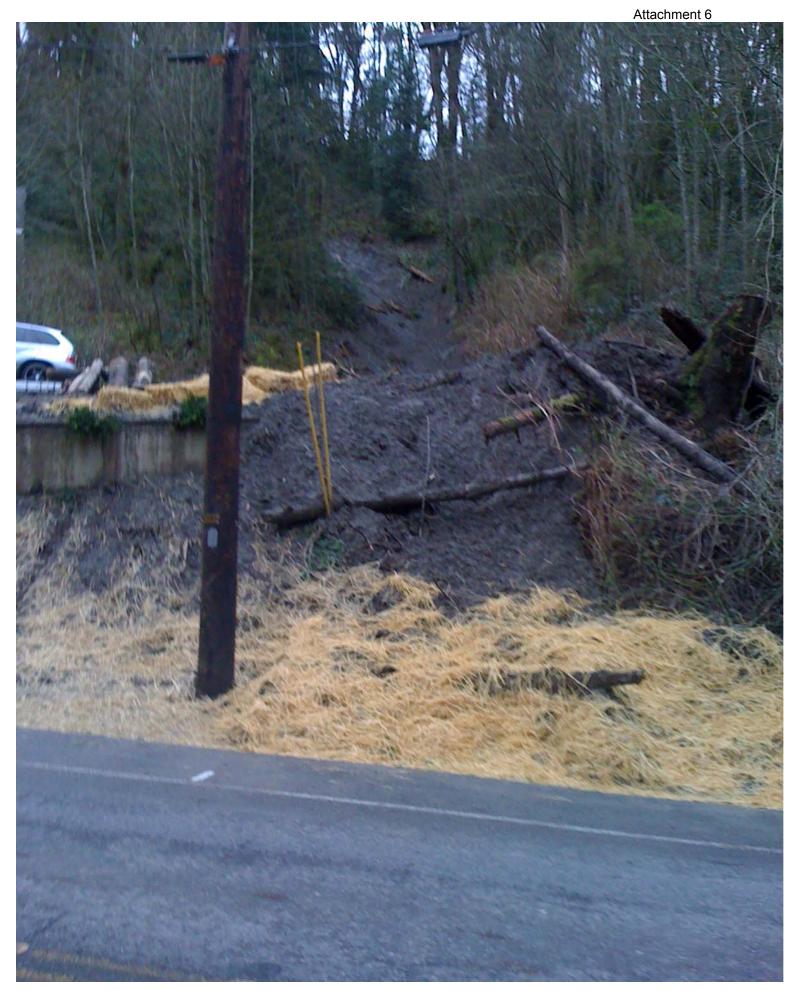
Having just attended a Kirkland focus group convened by your planners, asking residents how they'd like the city develop, I heard residents here call for "saving green spaces, building green," and planning smart, "developing density in areas where there is already infrastructure and transportation to support it." They don't want to see the cookie-cutter subdivisions of yore, like some of the "McMansion" developments built into the hillsides before the Overlay was enacted, that injure the environment and character of our neighborhood.

Please keep up your efforts to protect our hillsides and neighbors on beautiful Finn Hill.

Sincerely,

Francesca Lyman, longtime Finn Hill resident
Finn Hill Neighborhood Alliance board of directors
Francesca@finnhilllalliance.org





From: F Lyman [mailto:chicha19@comcast.net]
Sent: Monday, January 27, 2014 5:54 PM

To: Planning Commissioners; Joan Lieberman-Brill; Jeremy McMahan

Subject: map -- to accompany photos of landslide behind home on Holmes Point Drive

Dear Planning Commissioners,

Please see attached aerial photo showing the location of a landslide several years ago, behind home in circle on left.

I was unable before now to send this to you with my earlier comment, which was addressed, among other issues, to the potential hazards of landslides in the Holmes Point Overlay area [see attached, below]. Could you please enter this photo into the public record as a supplement to my earlier message to you? I know from attending your latest Planning Commission meeting last Thursday that some of your commissioners were interested in some of the special circumstances that gave rise to the Holmes Point Overlay (landslides and steep slopes being among them).

More info on this aerial shot: The home in the circle on left happened to be for sale when the land simply slid down onto their property, narrowly missing the house. The home owner had to take their real estate listing down, apparently. A neighbor living nearby wrote to me that she believed the landslide was due in part to changes in the land and "the runoff from the neighborhood above." She did not know if the development predated the environmental standards under the Holmes Point Overlay of 1999. She also commented, "Look how far away they look from each other! Yet the impact was devastating." So this issue of Holmes Point having particularly steep slopes is hardly an academic issue--nor is the issue of what happens when "exceptions" are made to environmental protections. All of this deserve due consideration in deliberating any contemplated changes in the city's zoning codes.

Thanks	for takin	g a lool	k at this.

Regards,

FrancescaLyman

Finn Hill/Holmes Point resident

& Finn Hill Neighborhood Alliance board of directors



---- Original Message -----

From: F Lyman

To: PlanningCommissioners@kirklandwa.gov

Cc: <u>Joan Lieberman-Brill</u>; <u>JMcMahan@kirklandwa.gov</u>; <u>board@finnhillalliance.org</u>

Sent: Thursday, January 23, 2014 2:51 PM

Subject: comment on Holmes Point Overlay ordinance amendments -- to be considered at Jan 23 public hearing

Planning Commission, City of Kirkland 123 Fifth Avenue; Kirkland, Washington 98033 PlanningCommissioners@kirklandwa.gov

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I'm writing to support your proposed changes to the Holmes Point Overlay, with one important request -- that the word 'feasible' be changed to "possible" (as requested by Scott Morris and the FHNA Board of Directors)-- to not dilute the integrity of this carefully-crafted code.

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That's why, while applauding your strengthening provisions of the Overlay to protect this area, I don't want to see you allow exemptions to this code that would enable property owners to claim that certain protections for the environment and safety are "not feasible."

Having just attended a Kirkland focus group convened by your planners, asking residents how they'd like the city develop, I heard residents here call for "saving green spaces, building green," and planning smart, "developing density in areas where there is already infrastructure and transportation to support it." They don't want to see the cookie-cutter subdivisions of yore, like some of the "McMansion" developments built into the hillsides before the Overlay was enacted, that injure the environment and character of our neighborhood.

Please keep up your efforts to protect our hillsides and neighbors on beautiful Finn Hill.

Sincerely,

Francesca Lyman, longtime Finn Hill resident Finn Hill Neighborhood Alliance board of directors Francesca@finnhilllalliance.org



February 5, 2014

Planning Commission
City of Kirkland
123 Fifth Avenue
Kirkland, Washington 98033

Re: Holmes Point Overlay Zone

Dear Planning Commissioners:

I am writing on behalf of the board of directors of the Finn Hill Neighborhood Alliance ("FHNA") with respect to the Holmes Point Overlay ordinance (HPO) amendments that the Planning Commission will consider at its next meeting on February 13.

As you recall, in its letter of January 22 to the Planning Commission, FHNA endorsed the HPO amendments that have been proposed by the Planning Department staff with the exception that "feasible" be replaced by "possible" in proposed Sections 3.c and 4.b.2. After this issue was discussed at the Planning Commission's meeting on January 23, I promised that FHNA would consult with the Planning Department staff regarding the appropriate language to use in Sections 3.c and 4.b.2.

After further discussions with Planning Department staff, and subject to the comments set forth below, FHNA concurs that "feasible" is an acceptable word to describe the standard for locating a PNA over existing native vegetation that meets the requirements set forth in Section 4(a) of the HPO ("Section 4(a) vegetation"). While not free from ambiguity, "feasible" does signify that an owner or developer must provide a strong case for why a PNA cannot be designated to protect such vegetation. FHNA is now confident that the City staff shares this understanding of the word's meaning. Given this definition, "feasible" signifies a more rigorous standard than "reasonable", which in this context would leave exceptionally broad discretion to planning staff to determine when it would be "appropriate" for a PNA to be located elsewhere. If the HPO is to achieve its intended goal of preserving mature trees and native vegetation to mitigate erosion on the steep ravines of Finn Hill, a strong standard is essential.

FHNA's willingness to accept the use of "feasible" in the ordinance is conditioned on the City's providing a transparent process in which PNA decisions will be made. FHNA understands that Chapters 145 and 150 of the City's zoning code incorporate requirements for public notification, provision for the submission of public comments, and appeals. These chapters require that notice be given to affected property owners, that signs be posted and that an advertisement be published in a local newspaper. Significantly, the City's current practice is also to provide electronic notice of subdivision. Because subdivision approvals will require the preliminary designation of PNAs on parcels, Holmes Point neighbors who receive notice of subdivision applications will have an ability to address PNA determinations before vegetation is removed. Nevertheless, the current notification process can be improved. Chapters 145 and 150 do not explicitly require the City to provide the electronic notice that it currently offers. This deficiency should be rectified. FHNA recommends that Chapter 145.22 and

Chapter 150.22 of the zoning code be revised to specify that the public notice requirements for subdivision applications be revised to require that notice be given to all residents who apply for electronic notice using a registration (i.e. list serve) process available on the City's website.

While the foregoing improvement to Chapters 145 and 150 would ensure that the public will have input on preliminary PNA designations when subdivision applications are submitted, a critical gap in the public's ability to comment on the location of PNAs remains at the stage in which an owner or developer applies for a building permit. FHNA understands that, unless an integrated development plan was filed in conjunction with the subdivision application, a PNA's location can be revised at the building permit stage without notice to or an opportunity for comment from the public. Thus, a satisfactory preliminary decision regarding the location of a PNA at the subdivision stage can be undone at the time a building permit is considered, without the public's prior knowledge. Furthermore, parcels that were subdivided before annexation never underwent a preliminary PNA analysis by King County. To ensure that the public has meaningful opportunity to comment on a final PNA determination, FHNA urges that the City revise the HPO to provide that the same notification, comment, and appeal procedures as are used in the Process 1 subdivision application process (Chapter 145) will apply to final PNA determinations if no preliminary PNA determination has been made by the City or if a preliminary determination to locate a PNA over Section 4(a) vegetation would be revised, such that a portion of the Section 4(a) vegetation covered in the preliminary PNA would not be covered by the proposed final PNA. Hopefully, this circumstance would not arise frequently; however, should such a situation develop, it is important that all interested parties, including Holmes Point neighbors, have an opportunity to be heard.

Finally, FHNA notes that the first sentence of Section 3.c of HPO establishes that <u>all</u> PNA determinations – regardless of when they are made – must be located so as to cause the least alteration of existing vegetation. In other words, if it is not feasible to locate a PNA so that it consists of Section 4(a) vegetation, the PNA must be sited in a manner that causes the least damage to existing native vegetation on the parcel. We trust that the City and property owners will bear this overarching principle in mind when considering the designation of a preliminary and a final PNA.

Attached to this letter are proposed revisions of Section 3.c of the HPO and Chapter 145.22 of the zoning code, implementing the recommendations stated above. FHNA endorses the adoption of the proposed revision of the HPO with these recommendations. As always, we appreciate the opportunity to work with the City on this important regulation and we are grateful to have the cooperation of a responsive and knowledgeable Planning Department staff.

Sincerely,

BOARD OF DIRECTORS OF THE FINN HILL NEIGHBORHOOD ALLIANCE

Scott Morris, President

cc: Joan Lieberman-Brill Jeremy Mc Mahan

Attachment

Attachment to FHNA letter to Kirkland Planning Commission February 5, 2014

Proposed amendment to Section 3.c

Add the following sentence at the end of the final paragraph of Section 3.c:

Prior to any determination that it is not feasible to designate a PNA on a lot so that the PNA protects an existing area meeting the vegetation requirements of subsection 4(a), the City shall comply with the public notice and comment provisions of Chapter 145.22 and the provisions of Chapter 145.25 through 145.110 with respect to the PNA designation.

Proposed amendment to Chapter 145.22

Revise subsection (2)(5) to read as follows:

The notice will be posted on the City's website and the City will provide the public with a means to register to receive all such notices on a timely basis via email or equivalent means of electronic communication.

January, 24th 2014

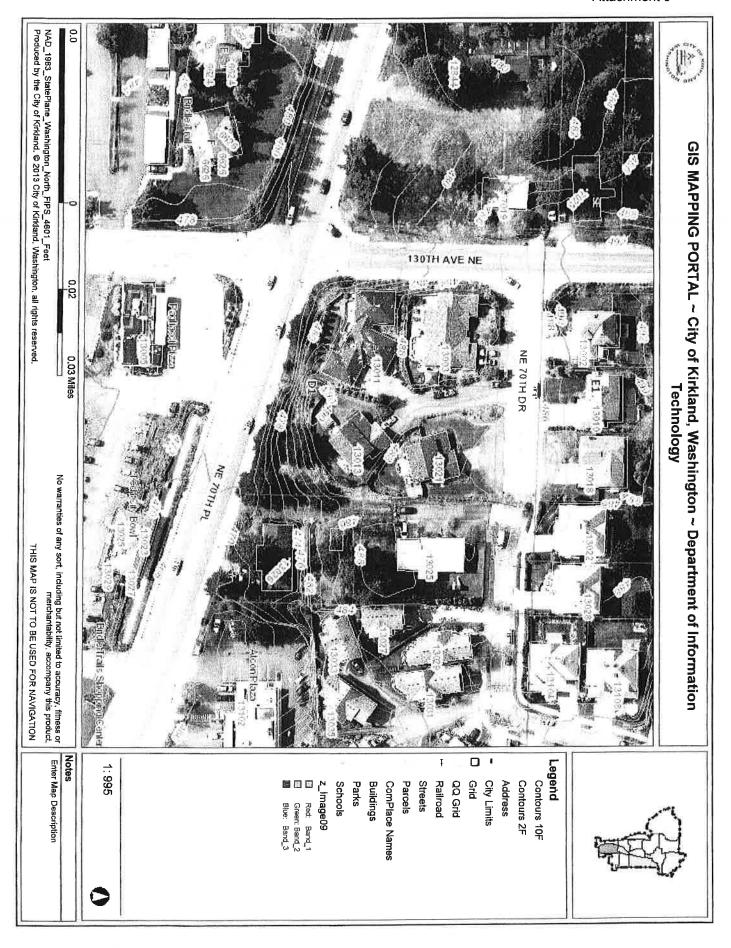
To: Houghton Council, Kirkland Planning Commission, and Planning Dept. Staff,

The attached schematic is the vision for TechCity Bowl that I presented to the Bridle Trails and South Rosehill Neighborhood Association last week. My impression and that of the association's President, was that the proposal was well received. In my presentation I mentioned the Horizontal Façade 100 foot restriction and during the break in the meeting a number of the audience told me personally that it made no sense, at least not in our case, and should be removed. No one that I can recall of, in the meeting or at my presentation to the association board of directors the month before, said that the Horizontal Façade restriction should remain or supported any part of it.

You can see in the schematic, how the NE 70th driveway access already works to breakup the mass of building as I mentioned in my email. You can also see how the NE 70th road easement has already helped significantly to put over 100' separation between the nearest low density residential dwelling unit and how the current restriction would unnecessarily wipe out a significant part of the building.

Thank you,

Brian Gaines, a principal of TechCity Bowl at Bridle Trails in Kirkland





TECHCITY BOWL CENTER, KIRKLAND, WA GAINES DEVELOPMENT CO, LLC



From: Brian Gaines [mailto:brian.gaines57@gmail.com]

Sent: Friday, January 24, 2014 11:36 AM

To: Helen Wattley-Ames **Cc:** Joan Lieberman-Brill

Subject: Re: Permit No. CAM13-00669 - comment from owner of Bridle Trails Shopping Center

Dear Ms Lieberman-Brill, Houghton City Council and the Kirkland Planning Commission and Planning Dept Staff,

First, I would like to thank the Houghton Council and Kirkland Planning Commission for agreeing with the staff recommendation to exempt all commercial zoned properties adjoining low density residential that are seperated by an minor arterial from the landscape buffer requirement.

I am writing today to ask that the Houghton Council excuse themselves from consideration of the Section 27 zoning code amendment for those commercial properties that adjoin low density residential that are seperated by a minor arterial road and that the Houghton Council defer all consideration for this amendment, regarding commercial zoned property adjoining low density residential but are also seperated by a minor arterial road, solely to the Kirkland Planning Commission.

As I stated last night, I firmly believe there are only 3 commercial zoned properties anywhere in Kirkland that adjoin to low density residential that <u>are seperated by a minor arterial</u> and that is the TechCity Bowl property, the Bridle Trails Shopping Center property, and a North Juanita Bay shopping center property, and that **Houghton has no commercial property in it's jurisdiction that adjoins a low density residential property that is seperated by a minor arterial road.** I would also ask that the staff confirm this for you.

It is also important to mention that because a road seperates these particular properties, these commercial properties already have driveway accesses that would break up the mass of buildings into seperate buildings, therefore accomplishing what the current code under consideration for amendment is attempting to do. Again, I would ask that the staff confirm this for you. This serves to further differentiate these 3 properties from those in Houghton, and anywhere else in Kirkland for that matter, including that property on NE 85th displayed last night.

As some of your council mentioned last night this is one of a number of valid reasons for consideration on a case by case basis and why you requested that the staff come back again by this Monday with a new proposal for your final deliberation.

Thank you,

Brian Gaines, a principal of Tech City Bowl at Bridle Trails in Kirkland.

On Thu, Jan 23, 2014 at 10:52 AM, Helen Wattley-Ames < helen@urbanrengroup.com > wrote:

Subject: Amendments to Kirkland Zoning Code, Permit No. CAM13-00669

Dear Ms Lieberman-Brill:

This e-mail is written on behalf of Bridle Trails Shopping Center, 6501-6625 132nd Avenue NE, Kirkland, WA 98033 (zone BCX). The property is owned by PNW BRIDLE TRAILS LLC and represented by property manager Urban Renaissance Group.

Our ownership group continues to give serious consideration to redevelopment of our property, jointly with the adjoining Totem Bowl property, into a mixed-use urban village, which could include housing as well as enhanced retail/service options. The potential benefit of such a redevelopment is the opportunity to create a more walkable, livable neighborhood for the benefit of all Kirkland residents, especially those in the Bridle Trails and South Rose Hill neighborhoods.

We greatly appreciate the City's efforts in reviewing the Roster of Miscellaneous Zoning Code and Municipal Code Amendments included in the City's Notice of Joint Hearing for January 23, 2014.

Height restrictions and setback requirements are significant roadblocks to realizing our vision of a Bridle Trails urban village.

Accordingly, we wish to express our support for the recommendations outlined in Section 24 (Change to Landscape Buffer Requirements – KZC Chapter 5 Section 5.10.020) and Section 27 (Eliminate or Revise Horizontal Façade Regulations).

Thank you again for your efforts. Please don't hesitate to contact me for any further information or if we can be of assistance.

Respectfully submitted,

PNW BRIDLE TRAILS LLC

By: Urban Renaissance Group LLC, its manager

Helen Wattley-Ames, Senior Property Manager

helen@urbanrengroup.com

(206) 454-3109